

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

GRANT LESLIE WASHAM,

Plaintiff,

v.

LAKE COUNTY SHERIFF'S DEPT., et.
al.,

Defendants.

No. C 13-5335 EDL (PR)

**ORDER DISMISSING WITH
LEAVE TO AMEND**

Plaintiff, a detainee at Lake County Jail, has filed a pro se civil rights complaint under 42 U.S.C. § 1983. He has been granted leave to proceed in forma pauperis.¹

DISCUSSION

A. Standard of Review

Federal courts must engage in a preliminary screening of cases in which prisoners seek redress from a governmental entity or officer or employee of a governmental entity. 28 U.S.C. § 1915A(a). In its review the court must identify any cognizable claims, and dismiss any claims which are frivolous, malicious, fail to state a claim upon which relief may be granted, or seek monetary relief from a defendant who is immune from such relief. *Id.* at 1915A(b)(1),(2). Pro se pleadings must be liberally construed. *Balistreri v. Pacifica Police Dep't*, 901 F.2d 696, 699 (9th Cir. 1990).

Federal Rule of Civil Procedure 8(a)(2) requires only "a short and plain statement of the claim showing that the pleader is entitled to relief." "Specific facts are not necessary; the statement need only "give the defendant fair notice of what the . . . claim is and the grounds upon which it rests."" *Erickson v. Pardus*, 551 U.S. 89, 93 (2007) (citations

¹ Plaintiff has filed four actions in this court in the past month and some of the actions have overlapping claims.

omitted). Although in order to state a claim a complaint “does not need detailed factual allegations, . . . a plaintiff’s obligation to provide the ‘grounds’ of his ‘entitle[ment] to relief’ requires more than labels and conclusions, and a formulaic recitation of the elements of a cause of action will not do. . . . Factual allegations must be enough to raise a right to relief above the speculative level.” *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555 (2007) (citations omitted). A complaint must proffer “enough facts to state a claim to relief that is plausible on its face.” *Id.* at 570. The United States Supreme Court has recently explained the “plausible on its face” standard of *Twombly*: “While legal conclusions can provide the framework of a complaint, they must be supported by factual allegations. When there are well-pleaded factual allegations, a court should assume their veracity and then determine whether they plausibly give rise to an entitlement to relief.” *Ashcroft v. Iqbal*, 556 U.S. 662, 679 (2009).

To state a claim under 42 U.S.C. § 1983, a plaintiff must allege two essential elements: (1) that a right secured by the Constitution or laws of the United States was violated, and (2) that the alleged deprivation was committed by a person acting under the color of state law. *West v. Atkins*, 487 U.S. 42, 48 (1988).

B. Legal Claims

Plaintiff states that jail officials have obstructed his efforts to pursue legal actions.

Prisoners have a constitutional right of access to the courts. See *Lewis v. Casey*, 518 U.S. 343, 350 (1996); *Bounds v. Smith*, 430 U.S. 817, 821 (1977). To establish a claim for any violation of the right of access to the courts, the prisoner must prove that there was an inadequacy in the prison’s legal access program that caused him an actual injury. See *Lewis*, 518 U.S. at 350-55. To prove an actual injury, the prisoner must show that the inadequacy in the prison’s program hindered his efforts to pursue a non-frivolous claim concerning his conviction or conditions of confinement. See *id.* at 354-55.

Plaintiff first alleges that a defendant learned of a complaint he filed and never returned some legal papers he needed copied. Plaintiff next alleges a supervisor is

1 covering up the physical abuse of inmates including plaintiff's assault, by taking legal
2 materials. Plaintiff then describes how defendant Henderson took his legal and financial
3 documents and did not return them.

4 The allegations against defendant Henderson are the subject of Case No. C 13-
5 4957 EDL (PR), where plaintiff's complaint was dismissed with leave to amend. Therefore,
6 this claim is dismissed with prejudice from the instant action. To the extent plaintiff has
7 been having difficulties pursuing his legal actions, he must provide more information
8 describing how his efforts to pursue a non-frivolous claim concerning his conviction or
9 conditions of confinement were hindered. Simply attaching exhibits is insufficient. It is not
10 clear what documents have been taken or denied and how it has harmed his legal
11 proceedings. To the extent plaintiff wishes to allege retaliation he must also describe the
12 specific actions of the defendants. The bare and conclusory allegations in this complaint
13 fail to state a claim.

14 CONCLUSION

15 1. The complaint is **DISMISSED** with leave to amend in accordance with the
16 standards set forth above. The amended complaint must be filed within **twenty-eight (28)**
17 **days** of the date this order is filed and must include the caption and civil case number used
18 in this order and the words AMENDED COMPLAINT on the first page. Because an
19 amended complaint completely replaces the original complaint, plaintiff must include in it all
20 the claims he wishes to present. See *Ferdik v. Bonzelet*, 963 F.2d 1258, 1262 (9th Cir.
21 1992). He may not incorporate material from the original complaint by reference. Failure to
22 amend within the designated time will result in the dismissal of this action.

23 2. It is the plaintiff's responsibility to prosecute this case. Plaintiff must keep the
24 court informed of any change of address by filing a separate paper with the clerk headed
25 "Notice of Change of Address," and must comply with the court's orders in a timely fashion.
26 Failure to do so may result in the dismissal of this action for failure to prosecute pursuant to
27 Federal Rule of Civil Procedure 41(b).
28

IT IS SO ORDERED.

Dated: January 14, 2014.


ELIZABETH D. LAPORTE
United States Chief Magistrate Judge

G:\PRO-SE\EDL\CR.13\Washam5335.dwlta.wpd

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

GRANT LESLIE WASHAM,

Plaintiff,

v.

LAKE COUNTY SHERIFFS JAIL et al,

Defendant.

Case Number: CV13-05335 EDL

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on January 15, 2014, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Grant Leslie Washam #37933
L.C.S.O. Sheriff's Jail
4913 Helbush Dr.
Lakeport, CA 95453

Dated: January 15, 2014

Richard W. Wieking, Clerk
By: Lisa R Clark, Deputy Clerk